

fee paid

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

1545

for the

Western District of Pennsylvania



____ CIVIL ____ Division

ZAFAR IQBAL M.D.

Case No.

2:23-CV-832

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

BOARD OF PROFESSIONAL AND OCUPATIONAL
AFFAIRS, PA STATE BOARD OF MEDICINE
(see attached)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☒ Yes ☐ No

FILED

MAY 17 2023

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Defendants

Donald K Cokus Jr. Police Chief, North Fayette Township, Police Department, City of Pittsburgh

CuraHealth Pittsburgh, LLC

Steven Jones MD, Philip Pollice, Michael Weis MD/UPMC, Passavant Hospital, Pittsburgh

Kimberley Ferketic (Individual)

Melissa Smith (Individual)

C. Ross Betts MD / American Renal Associates, LLC, Kittanning

A.D. Luparello (Individual)

Fresenius Medical Care, Inc

Addresses

Defendant 5: KIMBERLEY FERKETIC (Individual)

c/o Charles Lamberton, Gulf Tower, 707 Grant Street 1705, Pittsburgh, PA 15219
412 258 2250

Defendant 6: Melissa Smith (Individual)

c/o Laura Balzarini

1310 Grant Street Suite 3303, Pittsburgh, PA 15219

412 471 1200

Defendant no 7: C. Ross Betts MD. ARA Central Kittanning dialysis

1 Nolte Drive Suite 720, Kittanning, PA 16201

Tel: 724 543 3151

Defendant 8: A.D. Lupariello MD 4564 Penn Avenue, Pittsburgh PA 15224

412 683 7560

Defendant 9: Fresenius Medical Care North America

920 Winter Street, Waltham, MA 02451-1457

781-699-9000

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	ZAFAR IQBAL M.D.		
Address	205 ESSEX COURT		
	GIBSONIA	PA	15044
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	ALLEGHENY		
Telephone Number	2123811564		
E-Mail Address	ziqbalmd@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	BPOA, PA STATE BOARD OF MEDICINE		
Job or Title <i>(if known)</i>	STATE AGENCY		
Address	2601 N 3RD STREET		
	HARRISBURG	PA	17110
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	DAUPHIN		
Telephone Number	717 787 8503		
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	DONALD J. COKUS Jr./ POLICE DEPT OF PITTSBURGH		
Job or Title <i>(if known)</i>	CHIEF OF POLICE NORTH FAYETTE TOWNSHIP		
Address	400 N BRANCH ROAD		
	OAKDALE	PA	15071
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	ALLEGHENY		
Telephone Number	724 693 8400		
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 3

Name CURAHEALTH PITTSBURGH, LLC
 Job or Title (if known) c/o Attorney Kurt Miller
 Address One Oxford Center, 301 Grant St, 14th floor
 Pittsburgh PA 15219
 City State Zip Code
 County ALLEGHENY
 Telephone Number 412 394 2363
 E-Mail Address (if known)

☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name STEVEN JONES MD, PHILIP POLLICE MD, MICHAEL WEIS MD
 Job or Title (if known) UPMC, PASSAVENT HOSPITAL, PITTSBURGH
 Address 9100 BABCOCK BLVD
 PITTSBURGH PA 17110
 City State Zip Code
 County ALLEGHENY
 Telephone Number 412 367 6700
 E-Mail Address (if known)

☐ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?
 FIRST AMENDMENTS RIGHTS
 FIFTH AMENDMENTS RIGHTS
 FOURTEENTH AMENDMENT RIGHTS

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

II. Basis for Jurisdiction.

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory of the District of Columbia.” 42 U.S.C. §1983. If you are suing under section 1983, explain each defendant acted under color of state or local law.

1. **“Color of law”** provided by Court order dated April 18, 2022 (USSCapp A page 7. *Lines 6-16 Board disciplinary sanctions are within Board’s discretion unless Board acted in bad faith or fraudulently or sanction makes up capricious action or a flagrant abuse of discretion...This Court’s Court review is limited to determining if constitutional rights have been violated...*).

2. **Three Material witnesses (defendants MS, KF and Detective Cokus violated FIRST, FIFTH and FOURTEENTH amendment rights of the petitioner.** (USSCapp B page 4 lines 1-7 (*Respondent’s (petitioner) first three exceptions regarding creditability of relating to M.S., K.F., and Detective Cokus were without merit*).

3. **FRESENIUS MEDICAL CARE 2003 RULING:** (USSCapp B Page 6 lines 8-15) *Board recognizes (Appendix C, R-15) has the conclusion of the Governing Body Committee Decision, on April 4, 2003, that there were insufficient grounds for finding of sexual harassment based...the sole purpose of the introduction of this evidence was to lay the foundation and supply the full picture of UPMC’s investigation in the current M.S. matter.*

Board of Professional and Occupational Affairs here as BPOA, in response to my conviction of misdemeanor CP-02-CR-0003120-2018 dated 11/20/2018 (USSCapp 99-100) scheduled a hearing. A hearing was conducted on 26th, 27th February 2020 where two accusers and three police officers recorded their testimonies. Police detective Donald Cokus’s affidavit was made part of the record (USSCapp 96,97,98,), he testified under oath on February 27th, 2020. This testimony(USSCapp 89, 90,91) made his affidavit dated November 15, 2017, as *perjured affidavit, violated Fifth amendment rights of the petitioner and Obstructed Justice.*

Accuser KF, under oath owned two written statements and her testimony (USSCapp 82,83,84,85,86, 87, 88), made her allegations *fabricated and fore bore a false witness (knowingly said as fact which was untrue)*. The two statements were admitted on June 30,2019 to Federal Civil case no. 2:18-CV-00842-JFC-PLD, and the case was dismissed by Federal Judge Conti on October 24, 2019.

The other accuser MS also *forbore a false witness* by knowingly, falsely bringing the notification to police, by 28 days to make her allegations more egregious. Pre-hearing statement preempted *a knowingly said as fact which was untrue* (USSCapp 49,51,58,59, 64,65).

UPMC precluded the evidence and a statement to hearing panel on February 24, 2016, and information regarding the attempt to revoke privileges by the hospital in 2008 which was successfully overturned, *violated petitioner's First amendment rights*.

Fresenius Medical Care ruling and later revocation of privileges with same accusations and different hearing panel *violated Fourteenth amendment rights of the petitioner*.

BPOA issued a final order on November 2, 2020, (USSCapp 47) revoking my medical license and asserting their *discretion to disregard evidence*, which violated Fifth and Fourteenth amendment rights of this petitioner. On April 18, 2022, Commonwealth Court Case no 1190CD2020 (USSCapp A) affirmed and provided 'color of law' to the *discretion to disregard the evidence which violated* Fifth and Fourteenth amendments rights of the petitioner and violated 42 United States Code Section 1983.

United States Supreme Court admitted the first plea on December 7, 2022 under Case no 22-624 and then admitted rehearing plea under Section 1983, on February 27, 2023, both attached. I was recommended by the United States Supreme Court to pursue this suit in lower Court through a letter, attached. The website holds all the petitions' details and evidence under appendix. The number to each document which has been accepted by the United States Supreme Court is labelled as USSCapp and numbered as it appears on the website under 22-624.

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- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
See attached
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III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
see attached
-

- B. What date and approximate time did the events giving rise to your claim(s) occur?
see attached
-

- C. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)
see attached
-

III. Statement of Claim

A. Where did the events giving rise to your claim(s) occur?

North Fayette Police Station, Pittsburgh 11/10/2017 (Coerced Statement attached)

Common Pleas Court, Allegheny County, Pittsburgh (false testimony and perjured affidavit) CP-02-CR-0003120-2018 (11/20/2018).

Ferketic vs CuraHealth et al US District Western District, Pittsburgh 2:18-cv-00842-JFC-PLD 10/24/2019.

Testimonies of Melissa Smith, Kimberley Ferketic, Donald Cokus, Dr. Jones at Harrisburg, PA Feb 26,27, 2020.

III. Statement of Claim

B. What date and approximate time did the events giving rise to your claim(s) occur?

Kimberley Ferketic False Statements (attached) 11/09/2017 and 12/10/1017.

North Fayette Police Station, Pittsburgh 11/10/2017 (Coerced Statement attached)

Common Pleas Court case settlement GD-16-110615, Pittsburgh

Common Pleas Court, Allegheny County, Pittsburgh (false testimony and perjured affidavit) CP-02-CR-0003120-2018 (11/20/2018).

Ferketic vs CuraHealth et al US District Western District, Pittsburgh 2:18-cv-00842-JFC-PLD

Testimonies of Melissa Smith, Kimberley Ferketic, Donald Cokus, Dr.Jones and Dr. Pollice at Harrisburg, PA February 26th, 27th, 2020.

III. Statement or Claim

C. Where are the facts underlying your claim(s)?

1. Loss of practicing privileges in 10 hospitals from March of 2016.
2. Settlement and payment of \$10,000.00 to Melissa Smith based on false accusation February 22, 2018.
3. False misdemeanor conviction under CP-02-CR-0003120-2018 on 11/20/2018.
4. Loss of Medical License 11/02/2020
5. Loss of Dialysis income 11/18/2022.
6. Loss of Social standing and self esteem

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Reversal of Criminal Conviction under Common Pleas Court CP-02-CR-0003120-2018

Restoration of PA and NY Medical License retroactively from 11/02/2020

Arbitration to determine financial loss of income since 2015

Arbitration to determine punitive damages and compensation for pain and suffering .

Arbitration for dialysis income lost from American Renal Associates removal of my partnership shares

Arbitration for loss of income from Fresenius Medical Care, for life ban on privileges.

VI. Certification and Closing


Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 05/15/2023

Signature of Plaintiff



Printed Name of Plaintiff

ZAFAR IQBAL

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address